

**Amendments to the Drawings:**

The attached drawing sheet(s) include changes to Figure(s) 1A, 1B, and 4. In particular, Figs. 1A and 1B are labeled as “Prior Art” and Fig. 4 is amended to change reference number 220 to reference number 320 and to add text to the legend. No new matter is added by the amendments.

## REMARKS/ARGUMENTS

In the Office Action mailed August 22, 2008, claims 14 and 20 – 23 were rejected and claims 1 – 13 and 15 – 19 were objected to. In response, Applicant has amended claims 1, 9, and 14 and deleted claims 20 – 23. Applicant hereby requests reconsideration of the application in view of the amendments and the below-provided remarks.

### Allowable Subject Matter

Applicants appreciate the Examiner's review of and determination that claims 1 – 13 are allowable. Also, independent claim 14 and dependent claims 15 – 19 would be allowable if rewritten to overcome the rejection under 35 U.S.C. 112 as set forth below.

Additionally, while the Office Action provides a statement of reasons for the indication of allowable subject matter, the Office Action's statement is directed to specific aspects of certain claims and not necessarily all of the claims. Applicant notes that the Office Action's comments may have paraphrased the language of the claims and it should be understood that the language of the claims themselves set out the scope of the claims. Thus, it is noted that the claim language should be viewed in light of the exact language of the claim rather than any paraphrasing or implied limitations thereof.

### Objections to the Specification

The disclosure is objected to because on Page 4, line 11 "IG. 11" should read – FIG. 11-. Applicant has reviewed page 4 of the application as filed and published application (Pub. No.: US2008/0206687 A1) and cannot find the above-referenced informality. Applicant respectfully request clarification of this informality so that it can be corrected.

The Office Action also suggests that section headings be added to the specification, according to the guidelines set forth in the MPEP. Applicant notes that the suggested section headings are not required and, hence, Applicant respectfully declines to amend the specification to include the indicated section headings.

### Objections to the Drawings

Figs. 1A, 1B, and 4 have been amended to address the objections cited in the Office action. In particular, Figs. 1A and 1B are labeled as “Prior Art” and Fig. 4 is amended to change reference number 220 to reference number 320 and to add text to the legend. No new matter is added by the amendments. Accordingly, Applicants respectfully request that the objections to Figs. 1A, 1B, and 4 be withdrawn.

### Claim Objections

Claims 1 and 9 are objected to because the limitation ‘the periodicity’ lacks antecedent basis. Applicant has amended claims 1 and 9 to recite “a periodicity.” In view of the amendments, Applicant respectfully requests that the objection be withdrawn.

### Claim Rejections under 35 U.S.C. 112

Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Specifically, the Office Action states that it is unclear what is meant by fitting sinusoidal components of the first and second UV reflectance spectrum. Applicant has amended claim 14 to recite “fitting sinusoidal components of the first and the second UV reflectance spectrum to a cosine argument.” (emphasis added to show amendment). Support for the amendment is found in page 7, lines 25 – 27. Applicant asserts that amended claim 14 particularly points out and distinctly claims the subject matter which applicant regards as the invention. Accordingly, Applicant respectfully requests that the rejection under 35 U.S.C. 112, second paragraph, be withdrawn.

### Claim Rejections under 35 U.S.C. 102 and 103

Claims 20 and 21 were rejected under 35 U.S.C. 102(b) as being anticipated by Schiltz et al. (SPIE, Concept of two-dimensional swing curves for critical dimension prediction and optimization of resist/antireflective coating bilayers in topographic situations and Schiltz hereinafter). Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schiltz in view of Takahashi (U.S. Pat. No. 5,960,023). Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schiltz in view of Takahashi and further in view of Hirose et al. (U.S. Pub. No. 2002/0163649, hereinafter Hirose).

Claims 20 – 23 have been canceled and therefore the above-identified rejections are moot. Applicant notes that claims 20 – 23 are canceled without prejudice.

### **CONCLUSION**

Applicant respectfully requests reconsideration of the claims in view of the amendments and the remarks made herein. A notice of allowance is earnestly solicited.

Respectfully submitted,

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